

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

CARL STANLEY TURNER,
ADC #81306

PLAINTIFF

v.

2:12-cv-00136-DPM-JTK

RAY HOBBS, et al.

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge D.P. Marshall Jr. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The detail of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

I. INTRODUCTION

Plaintiff Carl Stanley Turner, a state inmate proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, together with a Motion to Proceed In Forma Pauperis pursuant to 28 U.S.C. § 1915 (Doc. No. 1). Although Plaintiff submitted a declaration that makes the showing required by § 1915(a), his Motion should be denied. 28 U.S.C. § 1915(a).

II. SCREENING

The Court is required to screen complaints seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. §1915(a). Additionally, the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(g), provides that:

[i]n no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on three (3) or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

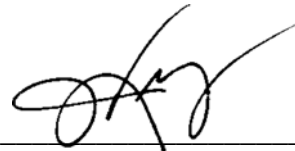
Plaintiff is considered a “three-striker” within the meaning of the PLRA, because three of his prior cases were dismissed as frivolous or for failure to state a claim.¹ In the present Complaint, Plaintiff challenges several disciplinary convictions he received in 2010 and 2011, and asks for damages for time spent in punitive isolation illegally. These allegations do not support a finding that Plaintiff is currently in imminent danger of serious harm. Therefore, the Court finds that his present Complaint does not fall within the exception to the “three-strikes” provision of the PLRA, and that his Motion to Proceed in forma pauperis should be denied.

III. CONCLUSION

IT IS, THEREFORE, RECOMMENDED that:

1. Plaintiff Turner’s Motion to Proceed In Forma Pauperis (Doc. No. 1) be DENIED.
2. Should Plaintiff wish to continue this case, he be required to submit the statutory filing fee of \$350.00 to the Clerk, noting the above case style and number within ten (10) days of the date of this Order, together with a motion to reopen the case. Upon receipt of the motion and full payment, the case will be reopened.
3. Plaintiff’s Complaint be DISMISSED without prejudice.

IT IS SO RECOMMENDED this 20th day of July, 2012.



JEROME T. KEARNEY
UNITED STATES MAGISTRATE JUDGE

¹ See 4:99-cv-00393-GH (dismissed as frivolous and for failure to state a claim); 4:01-cv-00772-GH (dismissed as frivolous and for failure to state a claim); and 5:10-cv-00246-JLH (dismissed for failure to state a claim).